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Attorney Docket No. 826.1554D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Yutaka KATSUYAMA

Application No.: 10/781,291

Group Art Unit: 2623

Confirmation No.: 3345

Filed: February 19, 2004

Examiner: A. Bhatnagar

For: IMAGE PROCESSING APPARATUS AND PATTERN EXTRACTION APPARATUS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In the April 21, 2005 Office Action, the Examiner indicated that claims 1-46 were pending in the application and subject to restriction. In a voice mail message left on April 27, 2005, the Examiner acknowledged that a Preliminary Amendment filed February 19, 2004 which cancelled claims 4-36 and 40 had been received and that therefore, only claims 1-3, 37-39 and 41-46 were pending. However, the Examiner asserted that the pending claims were directed to more than one species.

In the first paragraph of the Detailed Action, the Examiner asserted that "Figs 1, 2, 3, etc." disclosed patentably distinct species with "labeling of color/color processing and an image being performed based on the number of colors (Species 1 corresponding to Fig. 2), color difference information (species 2 corresponding to Fig. 3), etc." (Office Action page 2, lines 5-7). No identification of what claims correspond to any of the drawings was provided by the Examiner. Applicant elects claims 1-3, 37-39, 41, 42, 44 and 45 as species 1, with traverse.

The description of Fig. 2 on pages 27-28 of the application involves high-level concepts where the number of colors is determined and one of two methods of labeling colors is selected for each color image, depending upon whether there is a small number of colors, or a large number of colors. Thus, claims 1 and 2 and claim 3 which depend from claim 2 clearly belong to species 1.

Claim 3 identifies the first and second labeling units recited in claim 2 as using the color palette clustering method and adjacency expanding methods, respectively. Claim 37 describes details of the adjacency expanding method, while claims 38 and 39 provide two different ways of further defining the color palette clustering method and thus, claims 37-39 should be examined with the claims previously identified as included in species 1.

As stated in the specification, Figs. 2 and 3 are directed to second and third embodiments of the present invention. The description of Fig. 3 on pages 29-32 provides information regarding extracting color difference information in a local area based on the standard deviation of the color "before input image 13 is labeled" (page 30, line 4). Thus, despite the description of Fig. 3 as a separate embodiment, Fig. 3 could be viewed as depicting operations performed early in the first and second labeling units 9 and 10 of Fig. 2, in other words, Fig. 3 provides a description of a lower level concept of the high-level concept illustrated in Fig. 2.

Claims 41 and 42 recite how a labeling threshold is set in varying levels of detail, as disclosed with respect to Fig. 3, for example. These labeling thresholds can be used in the method recited in claims 1 and 2 and therefore, claims 41 and 42 should be examined with the claims previously identified as included in species 1.

Claim 44 recites operations that could be performed by the color number determination unit recited in claim 2 and thus, claim 44 should be examined with the claims previously identified as included in species 1.

Claim 45 includes limitations similar to those in claim 3 and therefore, claim 45 should be examined with the claims previously identified as included in species 1.

Claim 46 is similar in overall scope to claim 41, but recites more details of the operations performed. Thus, claim 46 should be included in the same species as claim 41 and therefore, claim 46 should be examined with the claims previously identified as included in species 1.

If the Examiner disagrees that claims 1-3, 37-39, 41, 42, 44 and 45 should be examined together, the Examiner respectfully requested to identify the species either by drawing figures or preferably by grouping the claims that the Examiner believes are distinct species.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on May 23, 20 05

STAAS & HALSEY

By: Nelly Ostelo

Date: May 23, 2005